

GEOFFREY ORME

MARCH 25 (legislative day, MARCH 5), 1942.—Ordered to be printed

Mr. ELLENDER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 4955]

The Committee on Claims, to whom was referred the bill (H. R. 4955) for the relief of Geoffrey Orme, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1784, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

H. Rept. No. 1784, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 4955) for the relief of Geoffrey Orme, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 6, strike out the figures "\$145.31" and insert in lieu thereof the figures "\$134.50".

Page 1, line 9, after the word "inclusive" strike out the bill to page 2, line 1, before the word "while".

The purpose of the proposed legislation is to pay to Geoffrey Orme, Rock Springs, Wyo., the sum of \$134.50, in full settlement of all claims against the United States for compensation and per diem subsistence allowance which he earned for the period July 1, 1940, to August 11, 1940, inclusive, while employed as a field assistant in the General Land Office, Department of the Interior, but not paid to him because during such period he was not eligible, on account of citizenship requirements, to receive compensation or subsistence allowance from funds appropriated for the Department of the Interior.

The facts of this case will be found fully set forth in a report dated June 25, 1941, addressed to the Honorable Dan R. McGehee, chairman of this committee, from Mr. E. K. Burlew, Acting Secretary of the Interior, appended hereto and made a part of this report.

DEPARTMENT OF THE INTERIOR,
Washington, June 25, 1941.

Hon. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives.*

MY DEAR MR. McGEHEE: I have received your letter of June 6, requesting a report on H. R. 4955, Seventy-seventh Congress, entitled, "A bill for the relief of Geoffrey Orme."

I recommend that H. R. 4955 be enacted.

The bill proposes to authorize the payment to Geoffrey Orme of the sum of \$156.12, representing the amount of compensation and per diem in lieu of subsistence earned by him while employed as a field assistant on a survey party of the General Land Office from July 1 to August 11, 1940, such payment to include compensation for accrued annual leave.

On June 2, 1940, Mr. Orme was employed as a temporary field assistant on a survey party in Oregon at a salary of \$60 per month.

Section 5 of the Interior Department Appropriation Act, 1941, approved June 18, 1940, provides that no part of any appropriation contained in that act shall be used to pay the compensation of any employee unless such employee is a citizen of the United States, or had filed a declaration of intention to become a citizen prior to the approval of the act, or who owes allegiance to the United States.

Mr. Orme filed with the headquarters office of the surveying district in which he was employed an affidavit stating that he was born November 11, 1920, at Clay Cross, England, and claiming citizenship by virtue of the fact that he entered the United States legally with his father, whose declaration of intention to become a citizen was made before the Second Judicial District Court of Sweetwater County, Green River, Wyo., on January 13, 1939, as shown by certificate No. 2657 of that date. Based on this affidavit Mr. Orme was continued on duty until August 11, 1940, when he was separated from the service, it having been ascertained that the action of the father in filing a declaration of intention to become a citizen of the United States conferred no right of citizenship to the minor son. Mr. Orme's claim for compensation and per diem for the period July 1 to August 11, 1940, was denied by the Comptroller General of the United States.

Mr. Orme made a clear statement of the facts in his affidavit obviously with no intention to deceive or defraud, under the assumption that his father's action automatically conferred upon him the rights of citizenship. He was actually employed from July 1 to August 11, 1940, inclusive, and the sum of \$156.12 represents the amount that would have been paid to him had it not been for the provisions of section 6 of the Interior Department Appropriation Act, 1941.

Sincerely yours,

E. K. BURLEW,
Acting Secretary of the Interior.

GENERAL ACCOUNTING OFFICE,
Washington, January 31, 1942.

Hon. DAN R. McGEHEE,
Chairman, Committee on Claims, House of Representatives.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of January 23, 1942, acknowledged January 24, requesting a report by this office as to the merits of H. R. 4955, entitled "A bill for the relief of Geoffrey Orme," and requesting, also, an investigation to ascertain whether settlement was made to Mr. Orme under Public Law 35, approved April 11, 1941. The bill provides as follows:

"That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Geoffrey Orme, Rock Springs, Wyo., the sum of \$145.31. Such sum represents the amount of compensation and per diem subsistence allowance which the said Geoffrey Orme earned for the period July 1, 1940, to August 11, 1940, inclusive (plus the sum of \$10.81, representing the amount of compensation which the said Geoffrey Orme would have received if he had been able to take the leave which had accrued to his credit as of August 11, 1940), while employed as a field assistant in the General Land Office, Department of the Interior, but not paid to him because during such period he was not eligible, on account of citizenship requirements, to receive compensation or subsistence allowance from funds appropriated for the Department of the Interior."

The records of this office show that Mr. Orme reported for duty June 1, 1940, with the Public Survey Office of the General Land Office at Portland, Oreg., and that, upon approval of the Interior Department Appropriation Act of June 18, 1940 (54 Stat. 406-462), section 5 of which prohibited use of funds therein appropriated to the payment of salaries of persons other than citizens of the United States, or persons who had declared their intention to become citizens at the date of the approval of the act, steps were taken in the administrative office to determine the citizenship of all employees. On August 1, 1940, an affidavit was filed showing that the said Geoffrey Orme was born November 11, 1920, at Clay Cross, England; that he entered the United States legally with his parents in 1930; and that he claimed citizenship by virtue of his father's naturalization. However, it further appears that his father had not obtained citizenship—he merely having filed a declaration of intention to become a citizen January 13, 1939, in the Second Judicial District of Sweetwater County, Green River, Wyo. Therefore, claimant's services were discontinued at the close of business August 11, 1940, but no payment was made to him from Federal funds for services rendered on and after July 1, 1940. Mr. Orme submitted a claim to this office for \$145.31, of which \$92.81 represents compensation for the period July 1 to August 17, 1940, and \$52.50 of which represents per diem in lieu of subsistence during the period July 1 to August 11, 1940, but said claim was disallowed by settlement of November 23, 1940, because of the provision in the Interior Department Appropriation Act, referred to above. There is for noting here that while the inhibition in the referred to appropriation act is against the payment of compensation it is understood that under the contract of hire in this case the so-called per diem in lieu of subsistence represents part of compensation as distinguished from an allowance for traveling purposes under the Subsistence Act of 1926.

The act of April 11, 1941, Public Law 35 (55 Stat. 136), provides:

"That, notwithstanding provisions contained in the several appropriation acts for the fiscal years 1939, 1940, and 1941 prohibiting the payment of compensation therefrom to officers or employees who are not citizens of the United States, the Comptroller General of the United States is hereby authorized and directed to allow credit in the settlement of disbursing officers' accounts, and relieve certifying officers of liability, for such payments for services rendered by non-citizen officers and employees as are otherwise correct and legal, as are made in good faith, and as are found not to be due to any lack of good faith on the part of the payee: *Provided*, That this Act shall only affect such payments as were made prior to January 1, 1941.

"SEC. 2. If credit is allowed in disbursing officers' accounts in accordance with section 1 of this Act, the officer or employee, or former officer or employee, receiving the payment shall not be required to refund the amount thereof; and any such amount which has been collected from an officer or employee, or former officer or employee, may be refunded to him."

This act of April 11, 1941, affords no relief in the present case as its provisions clearly are limited to those cases in which the employees actually received payment for their services, including those who have refunded the compensation so unlawfully received. It provides no relief for one who never received compensation covering the period when payment of salary was prohibited by the appropriation act. The bill here is in derogation of the specific provisions of the referred-to appropriation act, and does not appear to be in harmony with the relief act, *supra*. For those reasons I am unable to recommend favorable action on the bill. But even if the bill is to receive favorable consideration, it is suggested that the amount proposed for allowance thereunder, to wit, \$145.31, be reduced to \$134.50, as there would appear to be no merit whatever in the claim for \$10.81 as for leave which had accrued but was not taken prior to his separation from the service.

Sincerely yours,

LINDSAY C. WARREN,
Comptroller General of the United States.

○

